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Commissioner for Patents
 P.O. Box 1450
 Alexandria, VA 22313-1450

Re: Office action dated 9/17/05 regarding U.S. patent application number 10/786,245

Dear Sirs:

This letter is responsive to the office action dated 7/25/05 (copy attached) regarding U.S. patent application number 10/613,499.

In response to the examiner's restriction requirement, election is made to prosecute claims 1-8 and 16-24, and claims 9-15 are withdrawn from further consideration by the examiner, as being drawn to a non-elected invention.

Claim rejections under USC Section 102:

The examiner rejects claims 1, 2, 4, 5, 7, 16, 18, and 19-23 under 35 U.S.C. 102(b) as being anticipated by Herr (5790243), stating that:

"Herr shows a system that includes an electronic image sensor having freedom of motion (figure 1), optics with a known scale factor coupled to the image sensor (figure 1), an analog to digital converter is inherent in any computer system with inputs of analog voltages, computer memory (figure 2), a clock oscillator (figure 2), and a distance calculating means (figure 3 and 4 Ref 2)."

The Herr invention does not actually employ an image sensor. It does not need one, since it is not processing an image. It simply employs an optical detector. The Herr invention is for measuring the contour of the surface of a road. To do so, it measures a plurality of distances from a fixed point of reference to various points on the surface of the road. It does not measure distance traveled over a surface, as the present invention does.

In fact, the Herr invention relies on external means to measure distance traveled over the surface it profiles. For instance, the patent mentions an operator manually pressing a key every tenth of a mile while traveling down the highway.

Measuring the distance from an object is a completely different function than measuring distance traveled over a surface. The Herr invention is not suited for measuring distance

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